



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Patent Review and Derivation Proceedings

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 7, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: Patent Review and Derivation Proceedings.

OMB Control Number: 0651-0069.

Needs and Uses: The Leahy-Smith America Invents Act, which was enacted into law on September 16, 2011, provided for many changes to the procedures of the Patent Trial and Appeal Board ("PTAB" or "Board," formerly the Board of Patent Appeals and Interferences) procedures. These changes included the introduction of *inter partes* review, post-grant review, derivation proceedings, and the transitional program for covered business method patents. Under these administrative trial proceedings, third

parties may file a petition with the PTAB challenging the validity of issued patents, with each proceeding having different requirements regarding timing restrictions, grounds for challenging validity, and who may request review.

Inter partes review is a trial proceeding conducted at the Board to review the patentability of one or more claims in a patent only on a ground that could be raised under §§ 102 or 103, and only on the basis of prior art consisting of patents or printed publications. Post grant review is a trial proceeding conducted at the Board to review the patentability of one or more claims in a patent on any ground that could be raised under § 282(b)(2) or (3). A derivation proceeding is a trial proceeding conducted at the Board to determine whether (1) an inventor named in an earlier application derived the claimed invention from an inventor named in the petitioner's application, and (2) the earlier application claiming such invention was filed without authorization. The transitional program for covered business method patents is a trial proceeding conducted at the Board to review the patentability of one or more claims in a covered business method patent. The covered business method program expired on September 16, 2020 and the Board no longer accepts new petitions related to this program, but continues to accept papers in previously-instituted proceedings.

This information collection covers information submitted by the public to petition the Board to initiate an *inter partes* review, post-grant review, derivation proceeding, and the transitional program for covered business method patents, as well as any responses to such petitions, and the filing of any motions, replies, oppositions, and other actions, after a review/proceeding has been instituted.

Form Numbers: None.

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector; individuals or households.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 9,238 respondents.

Estimated Number of Annual Responses: 12,338 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public between 30 minutes (0.5 hours) and 165 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 1,368,058 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: \$69,638,370.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number 0651–0069.

Further information can be obtained by:

- E-mail: InformationCollection@uspto.gov. Include “0651-0069 information request” in the subject line of the message.
- Mail: Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Kimberly Hardy,

Information Collections Officer,

Office of the Chief Administrative Officer,

United States Patent and Trademark Office.

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